AMO REPORTS 84-9

RESPONSE TO BILL 77: AN ACT RESPECTING THE PROTECTION AND WELL-BEING OF CHILDREN AND THEIR FAMILIES

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

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The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some six hundred (600) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interest.

The following sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

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* Northern Ontario Section (FONOM/NOMA)
* Rural (ROMA) Section
* Organization of Small Urban Municipalities Section

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AMO RESPONSE TO BILL 77: AN ACT RESPECTING THE PROTECTION AND WELL-BEING OF CHILDREN AND THEIR FAMILIES

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AMO Report 84-9 was submitted to the Honourable Frank Drea, Minister of Community and Social Services, and the Honourable Claude Bennett, Minister of Municipal Affairs and Housing, on December 7, 1984.

AMO RESPONSE TO BILL 77: AN ACT RESPECTING THE PROTECTION AND WELL-BEING OF CHILDREN AND THEIR FAMILIES

BACKGROUND

In 1977 the Ministry of Community and Social Services established the Children's Services Division, which assumed responsibility for children's services and a variety of legislation which had previously been the responsibility of several Ministries. One of the first activities was to consolidate the existing Acts pertaining to children's services. A draft document was prepared.

In reaction to the draft in May 1983, AMO prepared Report 83-6 "Response To The Children's Act". Twenty-six (26) recommendations were outlined pertaining to general principles and each section of the proposed legislation. On July 8, 1983 a meeting occurred with Robert McDonald, Deputy Minister of Community and Social Services, at which AMO representatives presented Report 83-6, and highlighted the Association's concerns.

AMO reviewed the draft legislation when it was released and acknowledged that several of the concerns identified in Report 83-6 had been addressed: i.e. the role of the family and the flexible service system. However, three areas of municipal concern remained and were addressed in a presentation to the Provincial Standing Committee on Social Development on February 20, 1984. The three areas related to:

A. Children's Services Co-Ordinating and Advisory Groups

- their relationship to municipal council, their mandate, the placement of hard-to-serve children, and funding.

B. Types of Services

- the exclusion of day care.
- the role and mandate of children's aid societies.

C. Funding

- lack of new cost-sharing arrangements.
- lack of a guarantee that there be no increased municipal costs.

This Report identifies concerns addressed previously, and highlights additional concerns, in relation to the Second and Third Readings of Bill 77.

BILL 77 IN RELATION TO FEBRUARY 1984 AMO PRESENTATION TO THE STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Each item addressed in the February 20, 1984 presentation to the Standing Committee on Social Development will be individually discussed and the applicability to the current draft legislation assessed.

In the presentation, a recommendation was made that:

> "Children's services co-ordinating and advisory groups be introduced in those municipalities where they are requested by council and that there be an evaluation after three years."

In section 11 of the Act, the co-ordinating and advisory groups are described. It is stated that:

> "The Minister may make agreements with persons, organizations or municipalities for the establishment, support and operation of co-ordinating or advisory groups or committees, may make payments for this purpose out of legislative appropriations and may give other assistance for the purpose."

The possibility of municipalities requesting the creation of such committees does not seem to be precluded by this wording. However, the participatory, consultive process which municipalities would prefer is not encouraged by the above provisions in that municipalities would need to lobby the Minister of Community and Social Services if it perceived the need for such a committee. Also the possibility of evaluating the advisory committees is not discussed anywhere in the Bill.

A second recommendation made was that:

> "The Provincial Government consult with AMO to review and clarify the mandate of the children's services co-ordinating and advisory groups. This consultation should also include discussion on the relationship between the advisory groups and hard-to-serve committees and residential placement advisory committees."

In the present legislation, mention of "hard-to-serve" committees has been deleted. Discussion with Provincial staff indicated that the mandate of that type of committee (however vague it might have been) will be included within the co-ordinating and advisory groups. Mention of "hard-to-serve" committees had been deleted in the May 18, 1984 version of the Act.

The need for clarification of the mandate of the co-ordinating and the advisory groups continues.

The third recommendation outlined on February 20, 1984 was that:

> "The procedure to help hard-to-serve children be the responsibility of the children's services co-ordinating and advisory groups, where applicable."

Section 30 of the Act outlines that the Minister may make a written agreement to provide services to meet the special needs of children. The agreement would be for a specific period (subsection 30(3)) and be at the request of a person or a society having jurisdiction where the person resides (subsection 30(1)). The role of an advisory group or co-ordinating group identifying the type of service required is not mentioned.

The specific wording of the section is as follows:

30(1) "A person who is unable to provide the services required by a child in his or her custody because the child has a special need, and a society having jurisdiction where the person resides, may with a Director's written approval make a written agreement for,

(a) the society's provision of services to meet the child's special need; and

(b) the society's supervision or care and custody of the child.

(2) A person who is unable to provide the services required by a child in his or her custody because the child has a special need, and the Minister, may make a written agreement for,

(a) the Minister's provision of services to meet the child's special need; and

(b) the Minister's supervision or care and custody of the child.

(3) A special needs agreement shall only be made for a specific period, but may be extended, with a Director's written approval in the case of an agreement with a society, for a further period or periods.

(4) Where a special needs agreement provides for a child's residential placement, subsections 29(7),(8),(9) and (10) (authority to consent to medical treatment, contents of agreement, variation) apply with the necessary modifications, and subsection 29(4) (duty of society) applies to the society or the Minister, as the case may be, with necessary modifications."

The concern about this lack of clarity for the role of the co-ordinating or advisory group remains. What role will these groups play in the Minister's decisions?

Since these concerns relative to the role of the children's advisory groups have not been addressed, it is recommended:

1. that children's services co-ordinating and advisory groups be introduced in those municipalities where they are requested by council and that there be an evaluation after three years.

2. that the Provincial Government consult with AMO to review and clarify the mandate of the children's services co-ordinating and advisory groups. This consultation should also include discussion on the relationship between the advisory groups and residential placement advisory committees, and the development of an outline on how procedures for assistance to hard-to-serve children will be incorporated into the mandate of the children's services co-ordinating and advisory groups.

The next area discussed on February 20th related to funding issues. It was recommended that:

"The Provincial Government fully fund the children's services co-ordinating and advisory groups and that this principle be included in The Child and Family Services Act."

Details of funding for co-ordinating and advisory groups are not outlined in the Act. Provincial staff have indicated that it is unlikely that this level of detail would be included in the final Act.

Section 11 states that "The Minister may ..... make payments for the purpose out of legislative appropriations and may give other assistance for the purpose".

In addition, previous concerns expressed in Report 83-6 continue to be unanswered. These concerns were outlined in recommendations that stated:

> "AMO strongly recommends that a new cost-sharing arrangement for children's services be negotiated between the Province and the municipalities and that the new principles of this agreement be incorporated into The Family and Children's Services Act."

and

> "AMO recommends that the reorganization of the children's services not result in any increase in cost to any municipality, unless that municipality has agreed to the increase prior to it occurring and that this principle be guaranteed in The Family and Children's Services Act."

In 1982, resolution HSS-10 concerning 100% Provincial funding for children's services committees was endorsed and forwarded to the Ministry. This recommendation stated:

> "That all municipalities with children's services committees be requested to unite, with the support of the Association of Municipalities of Ontario, to petition the Minister of Community and Social Services to continue 100% funding of children's services committees or the proposed co-ordinating and advisory groups, and failing the necessary 100% Provincial funding, a recommendation be submitted to the Minister that the children's services committee or the proposed successor be terminated."

The proposed legislation, similar to the draft legislation, makes no mention of funding reform or funding levels. The Association's concerns, expressed previously in the above resolution and in AMO Report 83-6, still remain. There is potential for an increased financial burden to be placed on municipalities. As well, changes may occur gradually over time as a result of the new legislation and thus would have a financial impact on municipalities.

AMO concerns with these funding issues still remain. If it is not possible for these principles to be incorporated into the Act at this late stage, then it will be important that the regulations be reviewed carefully to attempt to have these principles embodied in the implementation of the Act.

Based on these funding concerns, it is recommended:

3. that the Provincial Government fully fund the children's services co-ordinating and advisory groups and that this principle be included in The Child and Family Services Act, and its regulations.

4. that a new cost-sharing arrangement for children's services be negotiated between the Province and the municipalities and that the new principles of this agreement be incorporated into The Child and Family Services Act.

5. that the reorganization of the children's services function not result in any increase in cost to any municipality, unless that municipality has agreed to the increase prior to it occurring and that this principle be guaranteed in The Child and Family Services Act.

6. that AMO be given the opportunity to review the regulations while they are in draft format.

Another area of concern raised in the February 20th presentation related to the exclusion of day care from the Act. It was recommended that:

> "The Province review and clarify its reasons for the decision to exclude day care from The Child and Family Services Act."

During the summer the Standing Committee on Social Development held hearings on the issue of day care only. The Association forwarded the proceedings from an AMO Seminar on "The Municipal Role in the Provision of Day Care for Children" held in June 1984, to the Standing Committee. The hearings have now concluded. Provincial staff were not able to provide any indication of the future course to be taken in relation to day care, whether a consultation paper would be prepared or new regulations or legislation drafted. The Association will continue to monitor actions in this area.

Based on the Association's continued concern on the issue of day care it is recommended:

7. that the Ministry of Community and Social Services provide the Association with information on the Ministry's plans and response to the day care issues as examined by the Standing Committee, and consult with the Association on this issue.

The final concern raised on February 20, 1984 related to children's aid societies. It was previously recommended that:

> "The Province consult with municipalities to review and clarify the role and mandate of children's aid societies."

Sections 18, 19 and 20 specifically refer to the role of municipalities relative to children's aid societies. These sections state:

18 "The board of directors of a society shall include the prescribed number of municipal representatives, appointed in the prescribed manner and for the prescribed terms."

19(3) "A municipality shall pay to the society having jurisdiction in the area of that municipality an amount, determined in accordance with the regulations, of the part of the society's estimated expenditures, as approved by the Minister, that is referable to the municipality."

The reference to "the regulations" emphasizes the necessity of AMO reviewing the regulations while they are still in draft form. Based on this concern it is recommended:

8. that, when the draft regulations for Bill 77 are reviewed, the regulations relating to children's aid societies be studied to identify the impact of any changes on municipalities.

NEW CONCERNS

In addition, through review and re-evaluation of the Bill, new areas of concern have been identified.

a) Custody Review Board

Section 92 of the Act creates a new "Board". AMO's position in the past has been that special purpose bodies should not be created. There are no details about who the "prescribed number of members" shall be, only that they will have "the powers and duties given to it by this Part and the regulations" (subsection 92 (1)).

Therefore, it is recommended:

9. that AMO express concern that another special purpose body, the Custody Review Board, is being created by section 92 of Bill 77 and that further information about the pertinent regulations be made available for its review.

b) French Language Services

Section (2) states that

"Service providers shall, where appropriate, make services to children and their families available in the French language."

The legislation does not indicate who has the authority to determine delivery of these services in the French language.

As well, there is no acknowledgement that there could be a need in larger urban centers or areas with other unique cultural backgrounds for provision of services in languages other than French.

Since the issue of funding is not explicit in the Act, it would be important to review the regulations to insure that costs pertaining to translation or other language services are funded.

AMO has not developed a policy specifically related to the provision of social services in French, although there is a policy that municipalities should be able to decide when it is appropriate for services to be provided in French.

It is recommended:

10. that, when municipalities indicate it is appropriate for services outlined in Bill 77 be provided in languages other than English, the cost of providing these services be fully funded by the Province.

It should be noted that the County and Regional Section of the Association did not support the above recommendation #10. Its comments with respect to this issue are appended to this document.

SUMMARY OF RECOMMENDATIONS

In relation to the role of the children's advisory services, it is recommended:

1. that children's services co-ordinating and advisory groups be introduced in those municipalities where they are requested by council and that there be an evaluation after three years.

2. that the Provincial Government consult with AMO to review and clarify the mandate of the children's services co-ordinating and advisory groups. This consultation should also include discussion on the relationship between the advisory groups and residential placement advisory committees, and the development of an outline on how procedures for assistance to hard-to-serve children will be incorporated into the mandate of the children's services co-ordinating and advisory groups.

In relation to funding issues, it is recommended:

3. that the Provincial Government fully fund the children's services co-ordinating and advisory groups and that this principle be included in The Child and Family Services Act and its regulations.

4. that a new cost-sharing arrangement for children's services be negiotated between the Province and the municipalities and that the new principles of this agreement be incorporated into The Child and Family Services Act.

5. that the reorganization of the children's services function not result in any increase in cost to any municipality, unless that municipality has agreed to the increase prior to it occurring and that this principle be guaranteed in The Child and Family Services Act.

6. that AMO request the opportunity to review the regulations while they are in draft format.

In relation to day care, it is recommended:

7. that the Ministry of Community and Social Services provide the Association with information on the Ministry's plans and response to the day care issues as examined by the Standing Committee, and consult with the Association on this issue.

In relation to children's aid societies, it is recommended:

8. that, when the draft regulations for Bill 77 are reviewed, the regulations relating to children's aid societies be studied to identify the impact of any changes on municipalities.

In relation to the Custody Review Board, it is recommended:

9. that AMO express concern that another special purpose body, the Custody Review Board, is being created by section 92 of Bill 77 and that further information about the pertinent regulations should be made available for its review.

In relation to the provision of services in languages other than English, it is recommended:

10. that, when municipalities indicate it is appropriate for services outlined in Bill 77 be provided in languages other than English, the cost of providing these services be fully funded by the Province.

Appendix A

The County and Regional Section Executive Committee adopted the following motion relative to the provision of services in languages other than French.

> "That Recommendation #10 be amended as follows:
>
> That where it is deemed appropriate to provide services in French, that the costs of providing such services be fully funded by the Province."

The Executive Committee believed that the Province should not be expected to fund the provision of services in languages other than French or English, which are generally considered to be the two official languages in Canada.

Further it was suggested that the Provincial Government should be asked to develop some guidelines for measuring "appropriate" situations for providing French language services.

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